

CARL EICHENHOFER

IBLA 82-932

Decided August 16, 1982

Appeal from decision of California State Office, Bureau of Land Management, declaring unpatented mining claim abandoned and void. CA MC 49205.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim--Mining Claims: Recordation

Sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), requires the owner of an unpatented mining claim to file a notice of intention to hold the claim or evidence of assessment work prior to Dec. 31 of each year both in the county where the location notice is of record and in the proper office of the Bureau of Land Management. Failure to file the required instruments in both places within the prescribed time period is conclusively deemed to constitute an abandonment of the claim.

APPEARANCES: Carl Eichenhofer, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Carl Eichenhofer appeals the California State Office, Bureau of Land Management (BLM), decision of May 19, 1982, which declared the unpatented King Solomon's Bonanza lode mining claim, CA MC 49205, abandoned and void because no proof of labor or notice of intention to hold the mining claim was filed with BLM in 1980, as required by 43 CFR 3833.2-1, implementing section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The claim was located in 1972 and was recorded with BLM October 16, 1979.

Appellant stated he had checked the BLM microfiche records maintained by Siskiyou County, Yreka, California, and alleged the 1980 proof of labor was shown for his claim. Appellant also argues that filing of a quitclaim deed transferring ownership of the claim to him in 1981, and his proof of labor for 1981 should constitute refiling of the claim in his name. Appellant does not allege that he filed a proof of labor with BLM in 1980.

BLM has submitted a printout of its serial register index of mining claims, as of March 8, 1982, which shows no receipt of a proof of labor for the King Solomon's Bonanza claim, CA MC 49205, since 1979. BLM states that Siskiyou County buys only the claimants index of mining claims. That index shows only the claimant's name and address, CA MC serial number, claim name, and location. It does not show any proof of labor.

[1] Section 314 of FLPMA requires that the owner of an unpatented mining claim located on public land located on or before October 21, 1976, must file a copy of the recorded location notice and evidence of assessment work in the proper office of BLM within 3 years after the date of the Act, i.e., on or before October 22, 1979, and prior to December 31 of each year thereafter he must file with the proper office of BLM a copy of the recorded proof of labor for that assessment year or notice of intention to hold the claim. Failure to submit any of the instruments required by FLPMA within the prescribed time limits is conclusively deemed to constitute an abandonment of the claim. This Board has no authority to waive noncompliance with the statutory requirements. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

